

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: H4/1/13  
**A Bill**

SENATE BILL 1137

By: Senator R. Thompson  
By: Representative *Broadaway*

### **For An Act To Be Entitled**

AN ACT TO REGULATE DOCUMENTS CONCERNING REAL PROPERTY; TO ALLOW SCRIVENER'S AFFIDAVITS TO CORRECT ERRORS IN INSTRUMENTS AFFECTING REAL PROPERTY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO REGULATE DOCUMENTS CONCERNING REAL PROPERTY; TO ALLOW SCRIVENER'S AFFIDAVITS TO CORRECT ERRORS IN INSTRUMENTS AFFECTING REAL PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 18, Chapter 12, Subchapter 1, is amended to add an additional section to read as follows:

18-12-108. Scrivener's affidavits – Definition.

(a) As used in this section, "scrivener's affidavit" means a sworn and acknowledged affidavit relating to:

(1) The identification, marital status, heirship, relation, death, or the time of death of a person who is a party to an instrument affecting the title to real property;

(2) The identification of a corporation or other legal entity that is a party to an instrument affecting the title to real property; or

(3) The legal description to real property.

(b) A scrivener's affidavit may be executed and recorded by a:

(1) Licensed attorney who prepared the original instrument;



(2) Licensed attorney who represents a party to the original instrument;

(3) Party to the original instrument if the party prepared the original instrument; or

(4) Current employee of a title company that completed the form of the original instrument.

(c) A scrivener's affidavit shall:

(1) Be sworn to and acknowledged before a person authorized to administer an oath under the laws of this state;

(2) Conspicuously identify in its title that it is a "Scrivener's Affidavit"; and

(3) Contain the following information concerning the original instrument:

(A) The name of the person or entity that completed or prepared the original instrument;

(B) The names of all parties to the original instrument;

(C) The recording information, including the recording date of the original instrument; and

(D) A brief description of each error that the scrivener's affidavit is designed to correct.

(d) A scrivener's affidavit may be prepared in substantially the following form:

SCRIVENER'S ERROR AFFIDAVIT

KNOW ALL PERSONS BY THESE PRESENTS that:

[Name] prepared or completed the form of a [Type of instrument] with regard to a conveyance from [Name(s)] as [grantor, mortgagor, etc.] to [Name(s)] as [grantee, mortgagee, etc.]. The [Type of instrument] which was recorded in the records of \_\_\_\_\_ County, Arkansas, on [Date], as Instrument Number [in Book at Page] contained a scrivener's error with regard to the [reason for correction(s)].

The aforementioned [Type of instrument] should reflect that the



the names of the original parties to the instrument as they are identified in the scrivener's affidavit; and

(3) Admissible as evidence to the same extent as a deed or other instrument recorded pursuant to § 18-12-201 et seq. in an action involving the instrument to which it relates or the title to the real property affected by the instrument.

(f)(1) Except as provided in subdivisions (f)(2) and (3) of this section, notice of the corrective information provided by the scrivener's affidavit is effective at the time the scrivener's affidavit is recorded.

(2) If an error contained in a scrivener's affidavit is of an obvious nature, notice of the corrective information provided by the scrivener's affidavit is effective at the time the original instrument being corrected was recorded.

(3) Subdivision (f)(2) of this section does not apply to a bona fide purchaser for value of real property.

/s/R. Thompson